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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/601,913	08/08/2000	Sergei Mikhailovich Safronov	V-177	5275
802 7590 10/15/2007 PATENTTM.US P. O. BOX 82788 PORTLAND, OR 97282-0788			EXAMINER RADA, ALEX P	
			ART UNIT 3714	PAPER NUMBER
			MAIL DATE 10/15/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

09/601,913

Applicant(s)

SAFRONOV ET AL.

Examiner

Alex P. Rada

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 02 August 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

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## DETAILED ACTION

### *Response to Amendment*

In response to the Non-Compliant amendment filed August 2, 2007 wherein applicant amends claim 17 cancels claims 1-16 and 18-20 and claim 17 is pending in this application.

### *Claim Rejections - 35 USC § 112*

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 17 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 17, the limitation of “game elements, namely meteorites and space waste” is considered indefinite because the language does not positively recite what are the game elements. The word “namely” can be interpreted to mean any element or it can be interpreted to mean just meteorites and space waste.

### *Claim Rejections - 35 USC § 102*

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 17 is rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Kitazawa (JP 05-286500).

Kitazawa discloses the use of satellites (space vehicle) randomly moving in space outside the Earth observes and catches some space debris (game elements), an event assessment means (device 3) located within the satellite body and having a set of fields (detecting sensors 2), and a technical facility, wherein the set of debris detecting sensors (2) transmit the detection signal to the device (3) to detect the hitting of the set of fields by the elements in some moment of time (space debris) located on board the space vehicle (satellite). The satellites in Kitazawa, in its broadest reasonable interpretation, is the space vehicle; the game elements, in its broadest reasonable interpretation, is the space debris; the game event assessment means, in its broadest reasonable interpretation, is the device or equipment (3), the technical facility for registering a game event, in its broadest reasonable interpretation is the debris detecting sensors, which is located outside the earth (2) transmit the detection signal to the device (3) to detect the hitting of the set of game fields by the elements (space debris) located on board the space vehicle (satellite). See MPEP 2114 and In re Ngai.

Kitazawa does not appear to expressly disclose a telemetry channel for transmitting game event occurrence data from outside of the earth to the earth. Kitazawa's satellite is placed into orbit for the purpose of collecting data concerning the occurrence of objects striking the satellite's sensors. In order to be of value, this data must be transmitted to earth. Therefore, Kitazawa's system must inherently include a telemetry channel for reporting the collected data (i.e., game occurrence data) to earth.

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In the alternative, even if a telemetry signal were not inherent in Kitazawa's system, Examiner takes official notice of the fact that telemetry is conventionally employed in the satellite art to provide data concerning a satellite's condition and events occurring on a satellite to the control station on earth. For example, in the movie Armageddon or the Apollo 13 incident, where the communications being transmitted from the satellites, space shuttle, capsule, space station or the like to the control station on earth. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Kitazawa to include a telemetry channel in order to follow standard practice in the industry by providing data concerning a satellite's condition and events occurring on a satellite to the control station on earth. See MPEP 2114 and In re Ngai.

### ***Response to Arguments***

5. Applicant's arguments filed August 2, 2007 have been fully considered but they are not persuasive.

Applicant contends that the Kitazawa (JP 05-286500) is irrelevant to the games of chance of the claimed application.

The respectfully disagrees. Kitazawa discloses structurally applicants claimed invention as discussed above. As noted in MPEP 2114 a claim containing a recitation with respect to the manner in which the claimed apparatus intended to be employed does not differentiate the claimed apparatus from the prior art apparatus if the prior art apparatus teaches all the structural limitations of the claim. While features of Kitazawa are recited structurally, applicant's claims are directed to an apparatus that is not distinguished from the prior art in terms of structure rather than function. The only indication that claimed invention is a game is in the preamble. The body of the claim does not

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provide elements, rules procedures of an actual game play. The examiner suggests that applicant submit claims to the method of playing a space game.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alex P. Rada whose telephone number is 571-272-4452. The examiner can normally be reached on Monday - Friday, 08:00-16:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Pezzuto can be reached on 571-272-6996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Robert E. Pezzuto  
Supervisory Patent Examiner  
Art Unit 3714



APR